

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING -- July 12, 1967

Appeal No. 9292      Motion Picture Association, appellant.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded and carried, with Messrs. Arthur B. Hatton and William F. McIntosh dissenting, the following Order was entered at the meeting of the Board on August 30, 1967.

EFFECTIVE DATE OF ORDER - Sept. 18, 1967

ORDERED:

That the appeal for permission to occupy 16,000 square feet of office space in proposed SP office building for Times, Inc. (journalists) at 16th and Eye Streets, NW., lot 803, square 186, be granted conditionally.

FINDINGS OF FACT:

- (1) The property involved is located at the southwest corner of 16th and Eye Streets, NW. and was formerly occupied by appellant Association. The property is now unimproved. The zoning is SP.
- (2) Appellant proposes to erect on the site an office building which will be occupied in part by appellant organization, The Motion Picture Association of America. The building was approved by the Board in appeal 9085.
- (3) Appellant proposes to lease approximately 16,000 square feet of space in the building to Time, Inc., the weekly news magazine.
- (4) Counsel to Time, Inc. represents to the Board at public hearing and in a memorandum filed for the record that:

The leased space will be used only by "editorial writers" of Time Magazine and their supporting personnel such as secretaries, stenographers and the like. These editorial writers are "professional" in that they are necessarily highly educated, who perform research and writing work similar to that performed by a lawyer. No material number of people will come to the office and there will be no "walk by" trade nor any attraction to such trade. There will be no exterior signs indicating that the offices of Time are located in the building.

OPINION:

We are asked in this case to rule that the editorial writers for a weekly news-magazine are "similar professional persons" as that phrase is used in Section 4101.42 of the Zoning Regulations. The majority rules favorably on the appeal only under the limited factual situation presented in the case. The approval is therefore limited to editorial writers for the weekly news-magazine Time, the phrase "editorial writers" being construed to include only persons who actually prepare editorial material to be published in the magazine, regardless of whether it is actually published or not. It is understood that these editorial writers may perform independent research and fact-finding in securing information and material necessary to prepare their writings, and is also understood that they may be supported by the usual secretaries, stenographers and a limited number of research assistants.

In deciding this case, we have kept in mind the broad range of organizations and occupations which may occupy new buildings in the SP zone as a matter of right. For example, under Section 4101.42 a labor union, regardless of its size or the complexity or scope of its activities, may occupy leased space of its own building in the SP zone and have an unlimited number of employees. An architect may secure an occupancy permit in the SP zone as a matter of right and have in his office an unlimited number of draftsmen. We take note that the largest law firm in the District of Columbia, having possibly hundreds of employees, will occupy space in the subject building as a matter of right. We also take note that the Regulations contain no requirement that only a non-profit organization may go into a new SP building. In fact, the other professional persons who may occupy as a matter of right are organized and operated for profit.

We believe that the proposed editorial and supporting use will be in harmony with existing uses or neighboring or adjacent property. This appears to be a rather strange requirement for a use in the SP zone as it would seem to require that the SP use be compatible with uses in the adjacent commercial zones. In any event, we find the harmony required by Section 4101.42(a). In addition, we find that the proposed use will not present dangerous or other objectionable traffic conditions.

Although this appeal is granted, this Order shall not become final, nor shall a certificate of occupancy issue, until the application has been submitted to the Director, Department of Highways and Traffic, and his report has been placed in the file of this case.

The certificate of occupancy shall be subject to the following qualifications:

- (a) The number of persons employed in the office shall not exceed 50.
- (b) Occupancy under the permit shall be limited to editorial writers and their supporting personnel, such as research assistants, secretaries and stenographers.
- (c) There shall be no exterior signs indicating occupancy of the space.
- (d) No "commercial" employees of Time, Inc. such as those employed in the advertising, circulation, business or other offices or divisions shall be employed or occupy space under this certificate of occupancy.

Mr. Hatton and Mr. McIntosh dissent.

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OPINION BY MR. HATTON DISSENTING:

I am of the opinion that the Board must keep before it two basic principles:

1. What is a similar professional person within the context of our Zoning Regulations? To arrive at this, we may draw upon court decisions on professionalism, but I do not think we are necessarily bound by such opinions.
2. What are the objectives and purposes of the SP District in our Zoning Regulations.

The appellant here sets forth three criteria necessary to have a vocation considered a "profession" on Page 5 of the brief. I would add to this list a fourth, as far as our Regulations are concerned. All of the professionals listed perform specialized consultative services which are to a limited purpose for private clients and each can be held accountable for his actions and errors in judgement. The only way that I know that journalists are held accountable for his actions is through a possible liability suit, which is very difficult to sustain at best.

I would also add a fifth point. Each of the professionals listed in the Zoning Regulations are controlled by a code of ethics and principles of practice through a professional organization such as the American Institute of Architects and the American Medical Association. These organizations may sanction members' malpractice in addition to professional licensing requirements of the community which may also be used to hold the professional accountable for his actions. I do not believe that a journalist can meet these last two requirements.

The SP District is designed as a buffer and transition zone between high-density residential areas and the Central Business District. Although limited office activities are permitted by the Regulations in the SP District, it was not intended that the SP District should compete with the Central Business office areas. In order to hold this fine line, I believe it is absolutely necessary for the Board to take an extremely narrow and restrictive view of the office-use provisions of the SP District.

In conclusion, although I am convinced that the specific proposal to locate Time, Inc. offices in this SP building would be no more objectionable than many other permitted installations, it would set a precedent that would tend to destroy the purpose of the SP District. I am further of the opinion that although journalists come very close to being professionals within the meaning of the Zoning Regulations, they do not quite make it. Therefore, I would deny this appeal.